

APPEAL NO. 023209
FILED FEBRUARY 4, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on December 10, 2002. The hearing officer resolved the disputed issue by deciding that the appellant's (claimant) compensable injury does not include or extend to include an arachnoidal cyst in the temporal region. The claimant appealed, disputing the determinations of the hearing officer and arguing that the hearing officer was biased because she is a state employee. The respondent (carrier) responded, urging affirmance.

DECISION

Affirmed.

The claimant contends that the hearing officer was biased because she is a state employee and the carrier is a state entity. The Texas Workers' Compensation Commission is independent from and not affiliated with the State Office of Risk Management. The records do not reveal hearing officer bias and we perceive no reversible error.

Whether or not the claimant's compensable injury included or extended to include an arachnoidal cyst in the temporal region was the sole issue to be tried at the CCH. Although the claimant mentions both hypertension and depression in his appeal, we note that the parties agreed to the issue prior to the beginning of the CCH. The carrier requested that the issue of whether the compensable injury extended to depression, high blood pressure, and hypertension be added, but the claimant argued he was not ready to proceed on this issue. Conflicting evidence was presented at the hearing regarding the extent of the injuries sustained by the claimant on the date of injury. Extent of injury is a question of fact. Texas Workers' Compensation Commission Appeal No. 93613, decided August 24, 1993. Section 410.165(a) provides that the contested case hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as of the weight and credibility that is to be given the evidence. It was for the hearing officer, as trier of fact, to resolve the inconsistencies and conflicts in the evidence. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701, 702 (Tex. Civ. App.-Amarillo 1974, no writ). The hearing officer noted that the doctors did not agree with whether the cyst was congenital or trauma induced. The hearing officer concluded that the compensable injury does not include or extend to include an arachnoidal cyst in the temporal region and nothing in our review of the record indicates that this decision is so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **STATE OFFICE OF RISK MANAGEMENT (a self-insured governmental entity)** and the name and address of its registered agent for service of process is

For service in person the address is:

**RON JOSSELET, EXECUTIVE DIRECTOR
STATE OFFICE OF RISK MANAGEMENT
300 W. 15TH STREET
WILLIAM P. CLEMENTS, JR. STATE OFFICE BUILDING, 6TH FLOOR
AUSTIN, TEXAS 78701.**

For service by mail the address is:

**RON JOSSELET, EXECUTIVE DIRECTOR
STATE OFFICE OF RISK MANAGEMENT
P.O. BOX 13777
AUSTIN, TEXAS 78711-3777.**

Susan M. Kelley
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Edward Vilano
Appeals Judge